



01215/O-I 17666USA

UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

Wendell D. Willingham  
Serial No: 09/960,069  
Filed: September 21, 2001  
For: CLOSURE WITH GAS-BARRIER  
LINER AND PACKAGE INCORPORATING  
SAME

Exr. Nathan Jeffrey Newhouse  
Art Unit: 3727

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TECHNOLOGY CENTER H3700

Declaration Under 37 C.F.R. §1.131

Wendell D. Willingham declares as follows:

1. I am the Wendell D. Willingham who is, and who is named as, a joint inventor of the invention (herein after "the invention") that is described and claimed in pending U.S. Patent application no. 09/960,069 (herein after "the pending application").
2. The invention that is described and claimed in the pending application was conceived in the United States of America jointly by me, while I was residing in the United States of America, and by Rodney M. Druitt, who was then a resident of the United Kingdom;
3. As evidence of the conception of the invention jointly by Mr. Druitt and me, I am enclosing, as Exhibit A., a copy of an Owens-Illinois Confidential Record of Invention that was prepared and signed by Mr. Druitt and by me;
4. Exhibit A is a true copy of a three-page document, except that the dates set forth therein have been redacted and the docket numbers (17666 and CE #1058) were added subsequent to the signing of the original of Exhibit A by Mr. Druitt and me;
5. The original of Exhibit A was prepared and signed subsequent to August 14, 2000, but the dates set forth in items 3,4,5 and 6 of Exhibit A, though redacted, are dates that occurred before August 14, 2000;

6. Items 5 and 6 of Exhibit A make reference to Technical Notebook 9142, pages 7,15,16 & 17;
7. Exhibit B is a true copy, other than the dates have been redacted, of the Technical Notebook pages 7,15,16 & 17 of the preceding paragraph;

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8. With the exception of page 17, each of the pages of Exhibit B was prepared by me before August 14, 2000, and page 17 was prepared by me shortly after August 14, 2000.

9. Exhibit C is a true black and white copy of a multi-color, document, except for the redacting of a date, that was prepared under my supervision shortly after August 14, 2000;

10. Exhibit C, in the portion identified as "ODS with LCP Barrier", is based on the sketch on page 16 of Exhibit B and describes the invention of the pending application;

11. Collectively, Exhibits A and B, and especially page 16 of Exhibit B, establish that the invention of the pending application was conceived before August 14, 2000;

12. Attached, as Exhibit D, is a copy of my copy of a letter from Mr. Druitt to Bob Green of Continental PET Technologies forwarding "Beer Closures" for testing;

13. Exhibit D is a true copy of the letter that was received by me, except that the dates have been redacted, but it was received by me, together with 2 closure samples embodying the invention of the pending application, prior to August 14, 2000;

14. Exhibit D describes closures that incorporate the invention of the pending application;

15. Exhibit E is a true copy, except for the redacting of a date, of an email and enclosure that were received by me shortly after August 14, 2000;

16. Exhibit E, in the enclosure under item 6, reports very low CO<sub>2</sub> loss, in cc/day, for closures according to the invention of the pending application, in comparative performance tests that were begun before August 14, 2000 and were diligently pursued thereafter until completion;

17. Exhibit E establishes, for the closures under item 6, that such closures were successfully reduced to practice by testing them for intended performance against the closure types in their intended environment; and

18. Further declarant sayeth not.

The undersigned hereby declares that all statements made herein of his/her own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: July 28, 2004

  
Wendell D. Willingham